



Minutes of the  
Board of Minerals and Environment Meeting  
Matthew Environmental Education and Training Center  
523 East Capitol Avenue  
Pierre South Dakota

July 17, 2003  
10:00 a.m. CDT

STATE DEPOSITORY  
PUBLICATION  
SEP 2003  
SOUTH DAKOTA STATE LIBRARY  
800 GOVERNORS DRIVE  
PIERRE SD 57501-2294

CALL TO ORDER AND ROLL CALL: Chairman Richard C. Sweetman called the meeting to order. Secretary Kathy Johnson noted that a quorum was present.

BOARD MEMBERS PRESENT: Richard Sweetman, Lee McCahren, Kathy Johnson, Linda Hilde, Chuck Monson, Brian Radke, and Mike DeMersseman.

BOARD MEMBERS ABSENT: Pat Healy and Wilbert Blumhardt.

OTHERS PRESENT: See attached attendance sheet.

APPROVAL OF MINUTES FROM MAY 14, 2003 MEETING: Motion by McCahren, seconded by Hilde, to approve the minutes from the May 14, 2003, Board of Minerals and Environment meeting, as mailed. Motion carried.

SURFACE MINING ISSUES: Eric Holm was administered the oath by Lee McCahren. He testified regarding releases of liability, releases of sureties, and transfers of liability (see attached matrix sheet).

Releases of Liability and Surety: Motion by DeMersseman, seconded by Monson, to release liability and \$1,000 for Brad Choal, Reliance, SD, Mine License No. 92-47 1, one site in Lyman County; release liability and \$500 for Groves Excavation & Snow Removal, Vermillion, SD, Mine License No. 83-127, one site in Clay County; and release liability and \$1,000 for Jerry M. Marts Construction, Gregory, SD, Mine License No. 85-294, one site in Gregory County. Motion carried.

Transfers of Liability and Releases of Surety: Motion by Johnson, seconded by DeMersseman, to release \$500 and transfer liability for one site in Charles Mix County from Richard L. Durham Construction, Geddes, SD, Mine License No. 89-395 to Charles Mix County Highway Department, Lake Andes, SD, Mine License No. 83-22; release \$3,000 and transfer liability for one site in Lake County from Neville Construction Company, Madison, SD, Mine License No. 83-166 to Reinicke Construction, Madison, SD, Mine License No. 91-419; release \$2,500 and transfer liability for one site in Sully County from Oahe Trails Development, Inc., Pierre, SD, Mine License No. 98-657 to Morris, Inc., Pierre, SD, Mine License No. 83-2; release \$1,500 and transfer liability for one site in Grant County from Duane E. Trapp, Milbank, SD, Mine License No. 83-134 to Grant County Highway Department, Milbank, SD, Mine License No. 83-183; and release \$500 and transfer liability for one site in Clark County from Wookey Construction,

Clark, SD, Mine License No. 97-616 to Clark County Highway Department, Clark, SD, Mine License No. 83-150. Motion carried.

Transfer of Liability: Motion by Hilde, seconded by DeMersseman, to transfer liability for one site in Sully County from DOT - Pierre Region, Pierre, SD, Mine License No. 83-10 to Sully County Highway Department, Onida, SD, Mine License No. 83-132. Motion carried.

Releases of Liability: Motion by McCahren, seconded by DeMersseman, to release liability for Dale G. Anderson, Bridgewater, SD, Mine License No. 83-196, one site in Hutchinson County and two sites in McCook County; release liability for Boyden Construction, Platte, SD, Mine License No. 85-313, one site in Charles Mix County; release liability for Darrell's Rock, Sand & Gravel, Wessington Springs, SD, Mine License No. 86-320, one site in Beadle County; release liability for Byrl Fenton, Canova, SD, Mine License No. 83-74, one site in McCook County; release liability for Fisher Sand & Gravel Company, Dickinson, ND, Mine License No. 83-54, one site in McPherson County; release liability for Kellen & Streit, Inc., Yankton, SD, Mine License No. 83-207, one site in Yankton County; release liability for Schladweiler Construction, Mitchell, SD, Mine License No. 83-167, one site in Hutchinson County; release liability for Weatherton Contracting Company, Inc., Beresford, SD, Mine License No. 88-364, one site in Beadle County; release liability for Aurora County Highway Department, Plankinton, SD, Mine License No. 83-87, one site in Aurora County; release liability for Mellette County Highway Department, White River, SD, Mine License No. 83-193, two sites in Mellette County; and release liability for Spink County Highway Department, Redfield, SD, Mine License No. 83-115, one site in Beadle County. Motion carried.

PUBLIC HEARING ON PROPOSED REVISIONS TO HAZARDOUS WASTE RULES - ARSD 74:28:21:01, 74:28:21:02, 74:28:22:01, 74:28:23:01, 74:28:24:01, 74:28:25:01, 74:28:25:03, 74:28:25:04, 74:28:25:05, 74:28:26:01, 74:28:27:01, 74:28:28:01, 74:28:28:03, 74:28:28:04, 74:28:28:05, 74:28:30:01, and 74:28:33:01: Chairman Sweetman opened the hearing at 10:15 a.m. CDT.

Carrie Jacobson, DENR Waste Management Program, reported that the purpose of the hearing was to update existing hazardous waste rules by incorporating the federal rules by reference. South Dakota is required by EPA to update its rules when new federal regulations are promulgated. This is done to maintain the state's hazardous waste program authorization/delegation status, which gives the state authority to operate its hazardous waste program in lieu of EPA.

The department proposed to adopt into state regulations those federal regulations promulgated from July 1, 2001, to June 30, 2002. The state's rules will then be substantially the same as the federal rules.

Proposed changes to the rules include:

- Clarification of the hazardous waste "mixture rule;"
- Addition of three industry-specific wastes to the "K" list of hazardous wastes;
- Amendment of requirements applicable to corrective action management units at hazardous waste facilities undergoing remediation;

- Established interim emission standards that all incinerators, cement kilns and lightweight aggregate kilns burning hazardous waste must meet until final standards are promulgated; and
- Clarification of requirements for the management of specific hazardous wastes.

The reason for the proposed amended rules is to ensure that facilities generating, transporting, treating, storing or disposing of hazardous wastes are managing their wastes in compliance with hazardous waste rules and in an environmentally sound manner.

Ms. Jacobson explained the changes to the rules and answered questions from the board.

Notice of the public hearing was published on or before June 14, 2002, in the Pierre Capital Journal, the Sioux Falls Argus Leader, the Rapid City Journal and the Watertown Public Opinion. Affidavits of Publication are on file at the Department of Environment and Natural Resources.

The Legislative Research Council (LRC) reviewed the proposed amendments for form, style, and legality. LRC's changes are incorporated into the final version of the rules.

EPA also reviewed the proposed rules, but submitted no comments.

Two individuals requested copies of the proposed rules and two individuals contacted the department with specific questions regarding the proposed amendments.

Chairman Sweetman requested public comments. No one provided comments.

Motion by Healy, seconded by Radke, to adopt amendments to the hazardous waste rules ARSD 74:28:21:01, 74:28:21:02, 74:28:22:01, 74:28:23:01, 74:28:24:01, 74:28:25:01, 74:28:25:03, 74:28:25:04, 74:28:25:05, 74:28:26:01, 74:28:27:01, 74:28:28:01, 74:28:28:03, 74:28:28:04, 74:28:28:05, 74:28:30:01, and 74:28:33:01, as presented to the board. Motion carried.

Chairman Sweetman declared the hearing closed.

**PUBLIC HEARING ON PROPOSED REVISIONS TO ARSD 74:36 - AIR QUALITY PROGRAM:** Chairman Sweetman opened the hearing.

The purpose of the hearing was to consider revisions to sections 74:36:01:01, 74:36:04:06, and 74:36:11:01, consider revisions to chapters 74:36:07, 74:36:08, 74:36:09, and 74:36:10, and to consider adoption of new sections 74:36:04:32, 74:36:04:33, 74:36:05:51, 74:36:05:52, 74:36:08:01, 74:36:08:20.02, 74:36:08:24, 74:36:08:25, 74:36:08:26, 74:36:08:27, 74:36:08:28, 74:36:08:29, 74:36:08:30, 74:36:09:01.01, 74:36:10:03.01, 74:36:10:08, 74:36:10:09, and 74:36:10:10.

The effect of the proposed amendments will be to adopt revisions to federal regulations, including new source review reforms. This also includes the adoption of new federal regulations for oil and natural gas production facilities, natural gas transmission and storage facilities,

secondary aluminum production, publicly owned treatment works, solvent extraction for vegetable oil, paper and other web coating facilities, and municipal solid waste landfills. By adopting the proposed amendment, the South Dakota air pollution control program rules will continue to comply with the federal regulations, and South Dakota will maintain approval of its air quality program.

New sections are proposed to both the minor and Title V permit program. The new sections identify what category of sources DENR can issue a general permit to and under what circumstances the Secretary of DENR may require a source applying for a general permit to get an individual permit.

DENR is obligated by an agreement with EPA to adopt new federal regulations to ensure the state's rules are equivalent to EPA's regulations.

Brian Gustafson reported that proposed revisions were reviewed by 27 individuals associated with the regulated community, South Dakota associations, environmental groups, and EPA. The public hearing notice was published on or before June 18, 2003, in daily newspapers throughout the state. Affidavits of Publication are on file at DENR.

The department received a letter supporting the proposed revisions to the new source review reforms from Otter Tail Power Company. The department received a letter from the Sierra Club opposing the adoption of the new source review reforms.

Two individuals requested copies of the proposed rules and two individuals contacted the department with specific questions regarding the proposed amendments. No one submitted written comments.

The Legislative Research Council (LRC) reviewed the proposed amendments for form, style, and legality. LRC's changes are incorporated into the final version of the rules.

Brian Gustafson and Kyrik Rombough provided a summary of the proposed amendments and additions to the Air Pollution Control Program rules, as follows. Additions are shown by underscores and deletions are shown by overstrikes.

74:36:01:01. **Definitions.** Unless otherwise specified, the terms used in this article mean:

(77) "VOC," "volatile organic compounds," any compound of carbon which participates in atmospheric photochemical reactions, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate and excluding the following, which have been determined to have negligible photochemical reactivity: acetone; methane; ethane; methylene chloride (dichloromethane); 1,1,1-trichloroethane (methyl chloroform); 1,1,2-trichloro 1,2,2-trifluoroethane (CFC-113); trichlorofluoromethane (CFC-11); dichlorodifluoromethane (CFC-12); chlorodifluoromethane (HCFC-22); trifluoromethane (HFC-23) 1,2 dichloro 1,1,2,2-tetrafluoroethane (CFC-114); chloropentafluoroethane (CFC-115) 1,1,1-trifluoro 2,2 dichloroethane (HCFC- 123); 1,1,1,2-tetrafluoroethane (HFC 134a); 1,1-dichloro 1-fluoroethane (HCFC-141b); 1-chloro 1,1-difluoroethane (HCFC-142b); 2-chloro-1,1,1,2-

tetrafluoroethane (HCFC-124); pentafluoroethane (HFC-125); 1,1,2,2-tetrafluoroethane (HFC-134); 1,1,1-trifluoroethane (HFC-143a); 1,1-difluoroethane (HFC-152a); 1,1,1,2,3,4,4,5,5,5-decafluoropentane (HFC-43-10mee); 3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ca); 1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb); parachlorobenzotrifluoride (PCBTF); cyclic, branched, or linear completely methylated siloxanes; perchloroethylene (tetrachloroethylene); difluoromethane (HFC-32); ~~ethylfluoride~~ **ethylfluoride** (HFC-161); 1,1,1,3,3,3-hexafluoropropane (HFC-236fa); 1,1,2,2,3-pentafluoropropane (HFC-245ca); 1,1,2,3,3-pentafluoropropane (HFC-245ea); 1,1,1,2,3-pentafluoropropane (HFC-245eb); 1,1,1,3,3-peptafluoropropane (HFC-245fa); 1,1,1,2,3,3-hexafluoropropane (HFC-236ea); 1,1,1,3,3,-pentafluorobutane (HFC-365mfc); chlorofluoromethane (HCFC-31); 1-chloro-1-fluoroethane (HCFC-151a); 1,2-dichloro-1,1,2-trifluoroethane (HCFC-123a); 1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxy-butane ( $C_4F_9OCH_3$ ); 2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane ( $(CF_3)_2CFCF_2OCH_3$ ); 1-ethoxy- 1, 1,2,2,3,3,4,4,4-nonafluorobutane ( $C_4F_9OC_2H_5$ ); 2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane ( $(CF_3)_2CFCF_2OC_2H_5$ ); methyl acetate; and perfluorocarbon compounds which fall into these classes:

- (a) Cyclic, branched, or linear completely fluorinated alkanes;
- (b) Cyclic, branched, or linear completely fluorinated ethers with no unsaturations;
- (c) Cyclic, branched, or linear completely fluorinated tertiary amines with no unsaturations; and
- (d) Sulfur-containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine;

(78) "Wire reclamation furnace," a furnace that uses either direct or indirect heat transfer to salvage nonferrous metals through the thermal destruction of solid waste materials; and

(79) "PM2.5," particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers as measured by an applicable reference or equivalent method!

**(80) "SO<sub>2</sub>," sulfur dioxide: and**

**(81) "NO<sub>2</sub>," nitrogen dioxide.**

**74:36:04:06. Timely and complete application for operating permit required. A** person who owns or operates a source required to have an operating permit shall submit a timely and complete application. An application is timely if it meets the time limits specified in this section. An application is complete if it meets the requirements in § 74:36:04:07.

A minor source applying for an initial permit shall submit a complete application to the department at least ~~90~~ 120 days, **which includes the 30 day public notice period,** before the estimated date of commencing construction of the source or operation of a constructed source.

A minor source applying for renewal of a permit shall submit a complete application 90 days before the date of permit expiration. If a source submits a timely and complete application for renewal of an operating permit within this time limit, the source's existing permit does not

expire until the renewal permit has been issued or denied. The terms and conditions of the existing permit remain in effect until the renewal permit has been issued or denied.

74:36:04:32 General permits. The secretary may issue a general permit to a category of air pollution sources that meets the following:

- (1) Involve the same or substantially similar types of operations;
- (2) Require the same or similar type of air emission limits; and
- (3) Require the same or similar record keeping and monitoring.

If a general permit has been issued by the secretary, all sources covered by the general permit shall apply for permission to operate under the general permit. Such sources may not operate until they are granted coverage under the general permit, or until they obtain an individual permit if required by the Secretary.

Source:

General Authority: SDCL 34A-1-21.

Law Implemented: SDCL 34A-1-56.

Note: The procedural requirements for obtaining a general permit under this chapter are similar to the procedural requirements for a minor source, such as a timely and complete application, completeness review, public participation, and departmental recommendation, as outlined in §§ 74:36:04:06 to 74:36:04:14, inclusive.

74:36:04:33 Secretary may require an individual permit. The secretary may require any source applying for a general permit or operating under a general permit to apply for and obtain an individual air quality permit. Individual air quality permits may be required at the discretion of the secretary, including under the following circumstances:

- (1) The owner or operator is not in compliance with the conditions of its existing individual air permit prior to applying for the general permit; or
- (2) The owner or operator is not in compliance with the conditions of the general permit.

Source:

General Authority: SDCL 34A-1-21.

Law Implemented: SDCL 34A-1-56.

74:36:05:51 General permits. The secretary may issue a general permit to a category of air pollution sources that meets the following:

- (1) Involve the same or substantially similar types of operations;
- (2) Require the same or similar type of air emission limits; and
- (3) Require the same or similar record keeping and monitoring.

**If a general permit has been issued by the secretary, all sources covered by the general permit shall apply for permission to operate under the general permit. Such sources may not operate until they are granted coverage under the general permit, or until they obtain an individual permit if required by the Secretary.**

**Source:**

**General Authority:** SDCL 34A-1-21.

**Law Implemented:** SDCL 34A-1-56.

**Note: The procedural requirements for obtaining a general permit under this chapter are similar to the procedural requirements for a Part 70 source, such as a timely and complete application, completeness review, public participation, and departmental recommendation, as outlined in §§ 74:36:05:08 to 74:36:05:23, inclusive.**

**74:36:05:52 Secretary may require an individual permit. The secretary may require any source applying for a general permit or operating under a general permit to apply for and obtain an individual air quality permit. Individual air quality permits may be required at the discretion of the secretary, including under the following circumstances:**

- (1) The owner or operator is not in compliance with the conditions of its existing individual air permit prior to applying for the general permit; or**
- (2) The owner or operator is not in compliance with the conditions of the general permit.**

**Source:**

**General Authority:** SDCL 34A-1-21.

**Law Implemented:** SDCL 34A-1-56.

**74:36:07:01. New source performance standards.** The general provisions for new source performance standards are those in 40 C.F.R. §§ 60.1 to 60.18, inclusive (~~July 1, 1999~~ **July 1, 2002**). For the purposes of this chapter, "administrator" means the secretary of the department, except for those authorities which cannot be delegated to the state, in which case "administrator" means both the administrator of the Environmental Protection Agency and the secretary of the department.

**74:36:07:02. Standards of performance for fossil fuel-fired steam generators.** The standards of performance for fossil fuel-fired steam generators are those in 40 C.F.R. §§ 60.40 to 60.46, inclusive (~~July 1, 1999~~ **July 1, 2002**).

**74:36:07:03. Standards of performance for electric utility steam generators.** The standards of performance for electric utility steam generators are those in 40 C.F.R. §§ 60.40a to 60.49a, inclusive (~~July 1, 1999~~ **July 1, 2002**).

**74:36:07:04. Standards of performance for industrial, commercial, and institutional steam generating units.** The standards of performance for industrial, commercial, and

institutional steam generating units are those in 40 C.F.R. §§ 60.40b to 60.49b, inclusive (~~July 1, 1999~~ **July 1, 2002**).

**74:36:07:05. Standards of performance for small industrial, commercial, and institutional steam generating units.** The standards of performance for small industrial, commercial, and institutional steam generating units are those in 40 C.F.R. §§ 60.40c to 60.48c, inclusive (~~July 1, 1999~~ **July 1, 2002**).

**74:36:07:06. Standards of performance for incinerators.** The standards of performance for incinerators are those in 40 C.F.R. §§ 60.50 to 60.54, inclusive (~~July 1, 1995~~ **July 1, 2002**).

**74:36:07:06.01. Standards of performance for hospital/medical/infectious waste incinerators constructed on or before June 20, 1996.** 40 C.F.R. Part 60, Subpart Ce (~~July 1, 1998~~ **July 1, 2002**), is incorporated into this rule by reference. Designated facilities under this subpart shall comply with the requirements for state plan approval in 40 C.F.R. §§ 60.32e to 60.38e, inclusive (~~July 1, 1998~~ **July 1, 2002**).

The owner or operator of a hospital/medical/infectious waste incinerator constructed on or before June 20, 1996, that decides to cease operation shall notify the department within six months of EPA's approval of the state plan for hospital/medical/infectious waste incinerators. The written notification shall inform the department of when the unit will be shutdown. The shutdown date shall not exceed one year after EPA's approval of the state plan for hospital/medical/infectious waste incinerators.

The owner or operator of a hospital/medical/infectious waste incinerator constructed on or before June 20, 1996, that decides to comply with the requirements of this section shall submit a compliance plan within six months of state plan approval that meets the following deadlines:

(1) Submit a Part 70 operating permit application and design drawings of the air pollution control device to the department within one year of state plan approval:

(2) Submit a copy of the purchase order or other documentation indicating an order has been placed for the major components of the air pollution control device within 15 months of state plan approval;

(3) Begin initiation of site preparation for installation of the air pollution control device within 2 years after state plan approval;

(4) Complete installation of the air pollution control device within 30 months after state plan approval; and

(5) Conduct a performance test within 33 months after state plan approval.

The owner or operator shall comply with 40 C.F.R. §§ 60.34e and 60.36e (~~July 1, 1998~~ **July 1, 2002**) within one year after state plan approval. The owner or operator shall comply with



the remaining requirements in this section within three years after state plan approval or by September 15, 2002, whichever is earlier.

**74:36:07:06.02. Standards of performance for hospital/medical/infectious waste incinerators for which construction is commenced after June 20, 1996.** The standards of performance for hospital/medical/infectious waste incinerators constructed after June 20, 1996, are those in 40 C.F.R. §§ 60.50c to 60.58c (~~July 1, 1998~~ July 1, 2002).

**74:36:07:07. Standards of performance for municipal waste combustors.** The standards of performance for municipal waste combustors are those in 40 C.F.R. §§ 60.50a to 60.59a, inclusive (~~July 1, 1999~~ July 1, 2002).

**74:36:07:07.01. Standards of performance for municipal combustors constructed after September 20, 1994.** The standards of performance for municipal waste combustors constructed after September 20, 1994, or modified or reconstructed after June 19, 1996, are those in 40 C.F.R. §§ 60.50b to 60.59b, inclusive (~~July 1, 1998~~ July 1, 2002).

**74:36:07:08. Ash disposal requirements.** All ash generated at a municipal waste combustor must be disposed of in accordance with article 74:27.

**74:36:07:09. Standards of performance for portland cement plants.** The standards of performance for portland cement plants are those in 40 C.F.R. §§ 60.60 to 60.66, inclusive (~~July 1, 1996~~ July 1, 2002).

**74:36:07:10. Standards of performance for asphalt concrete plants.** The standards of performance for asphalt concrete plants are those in 40 C.F.R. §§ 60.90 to 60.93, inclusive (~~July 1, 1995~~ July 1, 2002).

**74:36:07:12. Standards of performance for storage vessels of petroleum liquids constructed after June 11, 1973, and before May 19, 1978.** The standards of performance for storage vessels of petroleum liquids constructed after June 11, 1973, and before May 19, 1978, are those in 40 C.F.R. §§ 60.110 to 60.113, inclusive (~~July 1, 1995~~ July 1, 2002).

**74:36:07:13. Standards of performance for storage vessels of petroleum liquids constructed after May 18, 1978, and before July 24, 1984.** The standards of performance for storage vessels of petroleum liquids constructed after May 18, 1978, and before July 24, 1984, are those in 40 C.F.R. §§ 60.110a to 60.115a, inclusive (~~July 1, 1995~~ July 1, 2002).

**74:36:07:14. Standards of performance for volatile organic liquid storage vessels (including petroleum liquid storage vessels) for which construction, reconstruction, or modification commenced after July 23, 1984.** The standards of performance for volatile organic liquid storage vessels (including petroleum liquid storage vessels) for which construction, reconstruction, or modification commenced after July 23, 1984, are those in 40 C.F.R. §§ 60.110b to 60.117b, inclusive (~~July 1, 1998~~ July 1, 2002).

**74:36:07:15. Standards of performance for sewage treatment plants.** The standards of performance for sewage treatment plants are those in 40 C.F.R. §§ 60.150 to 60.156, inclusive (~~July 1, 1995~~ July 1, 2002).

**74:36:07:16. Standards of performance for coal preparation plants.** The standards of performance for coal preparation plants are those in 40 C.F.R. §§ 60.250 to 60.254, inclusive (~~July 1, 1995~~ July 1, 2002).

**74:36:07:17. Standards of performance for grain elevators.** The standards of performance for grain elevators are those in 40 C.F.R. §§ 60.300 to 60.304, inclusive (~~July 1, 1995~~ July 1, 2002).

**74:36:07:18. Standards of performance for stationary gas turbines.** The standards of performance for stationary gas turbines are those in 40 C.F.R. §§ 60.330 to 60.335, inclusive (~~July 1, 1995~~ July 1, 2002).

**74:36:07:19. Standards of performance for lime manufacturing plants.** The standards of performance for lime manufacturing plants are those in 40 C.F.R. §§ 60.340 to 60.344, inclusive (~~July 1, 1995~~ July 1, 2002).

**74:36:07:20. Standards of performance for metallic mineral processing plants.** The standards of performance for metallic mineral processing plants are those in 40 C.F.R. §§ 60.380 to 60.386, inclusive (~~July 1, 1995~~ July 1, 2002).

**74:36:07:21. Standards of performance for pressure-sensitive tape and label surface coating operations.** The standards of performance for pressure-sensitive tape and label surface coating operations are those in 40 C.F.R. §§ 60.440 to 60.447, inclusive (~~July 1, 1995~~ July 1, 2002).

**74:36:07:22. Standards of performance for equipment leaks of VOC in the synthetic organic chemicals manufacturing industry.** The standards of performance for equipment leaks of VOC in the synthetic organic chemicals manufacturing industry are those in 40 C.F.R. §§ 60.480 to 60.489, inclusive (~~July 1, 1996~~ July 1, 2002).

**74:36:07:23. Standards of performance for bulk gasoline terminals.** The standards of performance for bulk gasoline terminals are those in 40 C.F.R. §§ 60.500 to 60.506, inclusive (~~July 1, 1999~~ July 1, 2002).

**74:36:07:24. Standards of performance for new residential wood heaters.** The standards of performance for new residential wood heaters are those in 40 C.F.R. §§ 60.530 to 60.539b, inclusive (~~July 1, 1999~~ July 1, 2002).

**74:36:07:25. Standards of performance for petroleum dry cleaners.** The standards of performance for petroleum dry cleaners are those in 40 C.F.R. §§ 60.620 to 60.625, inclusive (~~July 1, 1995~~ July 1, 2002).

**74:36:07:26. Standards of performance for VOC emissions from synthetic organic chemical manufacturing industry (SOCMI) distillation operations.** The standards of performance for VOC emissions from synthetic organic chemical manufacturing industry (SOCMI) distillation operations are those in 40 C.F.R. §§ 60.660 to 60.668, inclusive (~~July 1, 1996~~ **July 1, 2002**).

**74:36:07:27. Standards of performance for nonmetallic mineral processing plants.** The standards of performance for nonmetallic mineral processing plants are those in 40 C.F.R. §§ 60.670 to 60.676, inclusive (~~July 1, 1998~~ **July 1, 2002**).

**74:36:07:28. Standards of performance for magnetic tape coating facilities.** The standards of performance for magnetic tape coating facilities are those in 40 C.F.R. §§ 60.710 to 60.718, inclusive (~~July 1, 1999~~ **July 1, 2002**).

**74:36:07:31. Standards of performance for graphic arts industry -- Publication rotogravure printing.** The standards of performance for publication rotogravure printing in the graphic arts industry are those in 40 C.F.R. §§ 60.430 to 60.435, inclusive (~~July 1, 1995~~ **July 1, 2002**).

**74:36:07:32. Standards of performance for volatile organic compound emissions from synthetic organic chemical manufacturing industry (SOCMI) reactor processes.** The standards of performance for volatile organic compound emissions from synthetic organic chemical manufacturing industry reactor processes are those in 40 C.F.R. §§ 60.700 to 60.707, inclusive (~~July 1, 1996~~ **July 1, 2002**).

**74:36:07:33. Standards of performance for calciners and dryers in mineral industries.** The standards of performance for calciners and dryers in mineral industries are those in 40 C.F.R. §§ 60.730 to 60.736, inclusive (~~July 1, 1995~~ **July 1, 2002**).

**74:36:07:34. Existing municipal solid waste landfill.** The owner or operator of an existing municipal solid waste landfill that meets the following conditions shall comply with §§ 74:36:07:35 to 74:36:07:42, inclusive:

(1) The landfill has accepted waste at any time since November 8, 1987, or has additional design capacity available for future waste deposition;

(2) The landfill has a design capacity greater than or equal to 2.5 million megagrams and 2.5 million cubic meters. The landfill may calculate design capacity either in megagrams or cubic meters. Density conversions must be documented and submitted with the report; and

(3) The landfill has a nonmethane organic compound emission rate of 50 megagrams a year or more. The calculation of the landfill nonmethane organic compound emission rate must meet the requirements of 40 C.F.R. § 60.754 (~~July 1, 1999~~ **July 1, 2002**), to determine the landfill nonmethane **organic compound emission rate**.

**74:36:07:36. Collection system.** The department shall approve the collection and control system plan if it is equivalent to or meets the conditions provided in 40 C.F.R. § 60.752(b)(2)(ii) (~~July 1, 1999~~ July 1, 2002) and the control requirements in § 74:36:07:37.

**74:36:07:37. Control system.** The department shall approve the control system if it is equivalent to or meets one of the following requirements:

(1) An open flare designed and operated in accordance with the parameters established in 40 C.F.R. § 60.18 (~~July 1, 1999~~ July 1, 2002);

(2) A control system designed and operated to reduce nonmethane organic compounds by 98 percent by weight; or

(3) An enclosed combustor designed and operated to either reduce nonmethane organic compounds by 98 percent by weight or the outlet nonmethane organic compound concentration to 20 parts per million as hexane by volume, dry basis at three percent oxygen, or less.

**74:36:07:39. Existing municipal solid waste landfill operational standards for collection and control systems.** The owner or operator of an existing municipal solid waste landfill that meets the requirements of § 74:36:07:34 shall meet the operational standards for collection and control systems in 40 C.F.R. § 60.753 (~~July 1, 1999~~ July 1 2002).

**74:36:07:40. Existing municipal solid waste landfill compliance provisions.** The owner or operator of an existing municipal solid waste landfill that meets the requirements of § 74:36:07:34 shall meet the compliance provisions in 40 C.F.R. § 60.755 (~~July 1, 1999~~ July 1, 2002).

**74:36:07:41. Existing municipal solid waste landfill monitoring provisions.** The owner or operator of an existing municipal solid waste landfill that meets the requirements of § 74:36:07:34 shall meet the monitoring provisions in 40 C.F.R. § 60.756 (~~July 1, 1999~~ July 1 2002).

**74:36:07:42. Existing municipal solid waste landfill reporting and recordkeeping.** The owner or operator of an existing municipal solid waste landfill that meets the requirements of § 74:36:07:34 shall meet the reporting and recordkeeping requirements specified in 40 C.F.R. §§ 60.757 and 60.758 (~~July 1, 1999~~ July 1, 2002).

**74:36:07:42.01. Additional reporting for existing municipal solid waste landfills.** The owner or operator of an existing municipal solid waste landfill that meets the requirements of subdivisions 74:36:07:34(1) and (2) shall submit an initial nonmethane organic compound emission rate report within 90 days of the effective date of EPA's approval of the state's § 111(d) plan required in the Clean Air Act and annually or every five years thereafter in accordance with 40 C.F.R. § 60.757(b) (~~July 1, 1999~~ July 1, 2002).

**74:36:07:43. Standards of performance for new municipal solid waste landfills.** The standards of performance for municipal solid waste landfills that commenced construction,

reconstruction, or modification on or after May 29, 1991, are those in 40 C.F.R. §§ 60.751 to 60.759, inclusive (~~July 1, 1999~~ **July 1, 2002**). Physical or operational changes made to existing municipal solid waste landfills solely to comply with §§ 74:36:07:34 to 74:36:07:42, inclusive, or activities required by or conducted pursuant to a CERCLA, RCRA, or state remedial action are not considered construction, reconstruction, or modification for purposes of this section.

**74:36:08:00. Administrator defined.** For the purposes of this chapter, "administrator" means the secretary, except for those authorities which cannot be delegated to the state, in which case "administrator" means both the administrator of EPA and the secretary.

**74:36:08:01. General provisions - National emission standards for hazardous air pollutants.** The general provisions for the national emission standards for hazardous air pollutants are those in 40 C.F.R. §§ 61.01 to 61.19, inclusive (~~July 1, 1999~~ **July 1, 2002**).

**74:36:08:02. Emission standards for asbestos air pollutants.** The emission standards for asbestos air pollutants are those in 40 C.F.R. § 61, Subpart M (~~July 1, 1999~~ **July 1, 2002**).

**74:36:08:03. General provisions -- National emission standards for hazardous air pollutants for source categories.** The general provisions for the national emission standards for hazardous air pollutants for source categories are those in 40 C.F.R. Parts 63.1 to 63.15, inclusive (~~July 1, 1999~~ **July 1, 2002**).

**74:36:08:03.01. Requirements for control technology determinations for major sources in accordance with Clean Air Act sections 112(g) and 112(j).** The provisions for control technology determinations for major sources in accordance with Clean Air Act sections 112(g) and 112(j) are those in 40 C.F.R. §§ 63.40, 63.41, and ~~64.42(c)~~ **63.42(c)** to 63.56, inclusive (~~July 1, 1999~~ **July 1, 2002**).

**74:36:08:04. National perchloroethylene air emission standards for dry cleaning facilities.** The national perchloroethylene air emission standards for dry cleaning facilities are those in 40 C.F.R. §§ 63.320 to 63.325, inclusive (~~July 1, 1997~~ **July 1, 2002**). Dry cleaning facilities that are considered area sources are not required to submit a Part 70 air quality operating permit application until December 9, 2005. An area source must still meet the applicable requirements in 40 C.F.R. §§ 63.320 to 63.325, inclusive (~~July 1, 1997~~ **July 1, 2002**).

**74:36:08:05. National emission standards for organic hazardous air pollutants from the synthetic organic chemical manufacturing industry.** The national emission standards for organic hazardous air pollutants from the synthetic organic chemical manufacturing industry are those in 40 C.F.R. § 63, Subpart F (~~July 1, 1999~~ **July 1, 2002**).

**74:36:08:06. National emission standards for organic hazardous air pollutants from synthetic organic chemical manufacturing industry process vents, storage vessels, transfer operations, and wastewater.** The national emission standards for organic hazardous air pollutants from synthetic organic chemical manufacturing industry process vents, storage vessels, transfer operations, and wastewater are those in 40 C.F.R. § 63, Subpart G (~~July 1, 1999~~ **July 1, 2002**).

**74:36:08:07. National emission standards for organic hazardous air pollutants for equipment leaks.** The national emission standards for organic hazardous air pollutants for equipment leaks are those in 40 C.F.R. § 63, Subpart H (~~July 1, 1999~~ **July 1, 2002**).

**74:36:08:08. National emission standards for organic hazardous air pollutants for certain processes subject to negotiated regulations for equipment leaks.** The national emission standards for organic hazardous air pollutants for certain processes subject to the negotiated regulations for equipment leaks are those in 40 C.F.R. § 63, Subpart I (~~July 1, 1997~~ **July 1, 2002**).

**74:36:08:09. National emission standards for chromium emissions from hard and decorative chromium electroplating and chromium anodizing tanks.** The national emission standards for hard and decorative chromium electroplating and chromium anodizing tanks are those in 40 C.F.R. § 63, Subpart N (~~July 1, 1998~~ **July 1, 2002**). An area source that falls under these requirements is not required to submit a Part 70 air quality operating permit application until December 9, 2005. An area source must still meet the applicable requirements in 40 C.F.R. § 63, Subpart N (~~July 1, 1998~~ **July 1, 2002**).

Decorative chromium electroplating operations or chromium anodizing operations that use fume suppressants and decorative chromium electroplating operations that use a trivalent chromium bath that incorporates a wetting agent as a bath ingredient are exempt from the Part 70 air quality operating permit program. Exempted sources must still meet the applicable requirements in 40 C.F.R. § 63, Subpart N (~~July 1, 1998~~ **July 1, 2002**).

**74:36:08:10. National emission standards for ethylene oxide emissions from sterilization facilities.** The national emission standards for ethylene oxide from sterilization facilities are those in 40 C.F.R. §§ 63.360 to 63.367, inclusive (~~July 1, 1999~~ **July 1, 2002**).

**74:36:08:11. National emission standards for industrial process cooling towers.** The national emission standards for industrial process cooling towers are those in 40 C.F.R. § 63, Subpart Q (~~July 1, 1999~~ **July 1, 2002**).

**74:36:08:12. National emission standards for gasoline distribution facilities (bulk gasoline terminals and pipeline breakout stations).** The national emission standards for gasoline distribution facilities (bulk gasoline terminals and pipeline breakout stations) are those in 40 C.F.R. § 63, Subpart R (~~July 1, 1997~~ **July 1, 2002**).

**74:36:08:13. National emission standards for halogenated solvent cleaning.** The national emission standards for halogenated solvent cleaning are those in 40 C.F.R. § 63, Subpart T (~~July 1, 1999~~ **July 1, 2002**). An area source that falls under these requirements is not required to submit a Part 70 air quality operating permit application until December 9, 2005. An area source must still meet the applicable requirements in 40 C.F.R. § 63, Subpart T (~~July 1, 1999~~ **July 1, 2002**). Exempted sources must still meet the applicable requirements in 40 C.F.R. § 63, Subpart T (~~July 1, 1999~~ **July 1, 2002**).

**74:36:08:14. National emission standards for wood furniture manufacturing operations.** The national emission standards for wood furniture manufacturing operations are those in 40 C.F.R. § 63, Subpart JJ (~~July 1, 1999~~ **July 1, 2002**).

**74:36:08:15. National emission standards for aerospace manufacturing.** The national emission standards for aerospace manufacturing are those in 40 C.F.R. §§ ~~63.741 to 63.753~~, inclusive, § **63, Subpart GG** (~~July 1, 1999~~ **July 1, 2002**).

**74:36:08:16. National emission standards for tanks--level 1.** The national emission standards for tanks -- level 1 are those in 40 C.F.R. §§ ~~63.9000~~ **63.900** to 63.907, inclusive (~~July 1, 1997~~ **July 1, 2002**). **The national emission standards for tanks -- level 2 are those in 40 C.F.R. §§ 63.1060 to 63.1066, inclusive (July 1, 2002).**

**74:36:08:17. National emission standards for containers.** The national emission standards for containers are those in 40 C.F.R. §§ 63.920 to 63.928, inclusive (~~July 1, 1997~~ **July 1, 2002**).

**74:36:08:18. National emission standards for surface impoundments.** The national emission standards for surface impoundments are those in 40 C.F.R. §§ 63.940 to 63.948, inclusive (~~July 1, 1997~~ **July 1, 2002**).

**74:36:08:19. National emission standards for individual drain systems.** The national emission standards for individual drain systems are those in 40 C.F.R. §§ 63.960 to 63.966, inclusive (~~July 1, 1997~~ **July 1, 2002**).

**74:36:08:20. National emission standards for oil-water separators and organic-water separators.** The national emission standards for oil-water separators and organic-water separators are those in 40 C.F.R. §§ 63.1040 to 63.1049, inclusive (~~July 1, 1997~~ **July 1, 2002**).

**74:36:08:20.01. National emission standards for closed vent systems, control devices, recovery devices and routing to a fuel gas system or a process. The national emission standards for closed vent systems, control devices, recovery devices and routing to a fuel gas system or a process are those in 40 C.F.R. §§ 63.980 to 63.999, inclusive (July 1, 2002).**

**Source:**

**General Authority: SDCL 34A-1-6.**

**Law Implemented: SDCL 34A-1-6, 34A-1-19.**

**74:36:08:20.02. National emission standards for equipment leaks. The national emission standards for equipment leaks -- control level 1 are those in 40 C.F.R. §§ 63.1000 to 63.1018, inclusive (July 1, 2002). The national emission standards for equipment leaks -- control level 2 are those in 40 C.F.R. § 63, Subpart UU (July 1, 2002).**

**Source:**

**General Authority: SDCL 34A-1-6.**

**Law Implemented: SDCL 34A-1-6, 34A-1-19.**

74:36:08:21. **National emission standards for hazardous air pollutants from the portland cement manufacturing industry.** The national emission standards for the portland cement manufacturing industry are those in 40 C.F.R. § 63, Subpart LLL (~~July 1, 1999~~ **July 1, 2002**), as amended and published in 67 Fed. Reg. 44769 (July 5, 2002), and 67 Fed. Reg. 72584 to 72585, inclusive (December 6, 2002).

74:36:08:22. **National emission standards for hazardous air pollutants for pesticide active ingredient production.** The national emission standards for pesticide active ingredient production are those in 40 C.F.R. § 63, Subpart MMM (~~July 1, 1999~~ **July 1, 2002**), as amended and published in 67 Fed. Reg. 59340 to 59356, inclusive (September 20, 2002).

74:36:08:23. **National emission standards for the printing and publishing industry.** The national emission standards for the printing and publishing industry are those in 40 C.F.R. § 63, Subpart KK (~~July 1, 1996~~ **July 1, 2002**).

74:36:08:24. **National emission standards for oil and natural gas production facilities.** The national emission standards for oil and natural gas production facilities are those in 40 C.F.R. § 63, Subpart HH (July 1, 2002).

**Source:**

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-6, 34A-1-19.

74:36:08:25. **National emission standards for natural gas transmission and storage facilities.** The national emission standards for natural gas transmission and storage facilities are those in 40 C.F.R. § 63, Subpart HHH (July 1, 2002).

**Source:**

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-6, 34A-1-19.

74:36:08:26. **National emission standards for secondary aluminum production.** The national emission standards for secondary aluminum production are those in 40 C.F.R. § 63, Subpart RRR (July 1, 2002), as amended and published in 67 Fed. Reg. 59791 to 59793, inclusive (September 24, 2002), and 67 Fed. Reg. 79815 to 79819, inclusive (December 30, 2002).

**Source:**

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-6, 34A-1-19.

74:36:08:27. **National emission standards for publicly owned treatment works.** The national emission standards for publicly owned treatment works are those in 40 C.F.R. § 63, Subpart VVV (July 1, 2002), as amended and published in 67 Fed. Reg. 64745 to 64746, inclusive (October 21, 2002).



Source:

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-6,34A-1-19.

74:36:08:28. National emission standards for solvent extraction for vegetable oil production. The national emission standards for solvent extraction of vegetable oil production are those in 40 C.F.R §§ 63.2830 to 63.2872, inclusive (July 1, 2002).

Source:

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-6,34A-1-19.

74:36:08:29. National emission standards for paper and other web coating. The national emission standards for paper and other web coating are those as published in 67 Fed. Reg. 72341 to 72362, inclusive (December 4, 2002).

Source:

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-6,34A-1-19.

74:36:08:30. National emission standards for municipal solid waste landfills. The national emission standards for municipal solid waste landfills are those as published in 68 Fed. Reg. 2238 to 2242, inclusive (January 16, 2003).

Source:

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-6,34A-1-19.

74:36:09:01.01. Prevention of significant deterioration permit required. New major stationary sources or major modifications to existing major sources that locate in an attainment or unclassified area must obtain a prevention of significant deterioration permit prior to beginning actual construction.

Source:

General Authority: SDCL 34A-1-6,34A-1-18.

Law Implemented: SDCL 34A-1-18.

Note: The procedural requirements for obtaining a preconstruction permit under the prevention of significant deterioration program are similar to the procedural requirements for a Part 70 source, such as a timely and complete application, completeness review, statement of basis, public participation, and departmental recommendation, as outlined in §§ 74:36:05:08 to 74:36:05:20.01, inclusive.

74:36:09:02. Prevention of significant deterioration. For the purposes of this chapter, the state's prevention of significant deterioration requirements are those in 40 C.F.R. § 52.21

(July 1, 1993), as amended and published in 67 Fed. Reg. 80274 to 80289, inclusive (December 31, 2002), except for 40 C.F.R. § 52.21(a)(1), (t), and (u) and § 51.166(q) (July 1, 1993) with the following differences:

(1) For the purposes of this section, all terms defined in this section have the meaning defined in 40 C.F.R. § 52.21, except for the term "administrator" which means the secretary with the following exceptions:

(a) In 40 C.F.R. § 52.21(b)(3)(iii), the term "administrator" means either the secretary or the administrator of EPA, as applicable;

(b) In 40 C.F.R. § 52.21(w)(2) to 52.21(w)(4), inclusive, the term "administrator" means either the secretary or the administrator of EPA, as applicable;

(c) In 40 C.F.R. §§ 52.21(b)(17), ~~52.21(f)(1)(v), (f)(3), and (f)(i)(i)~~; 52.21(g)(1) to 52.21(g)(6), inclusive; 52.21(l)(2); ~~52.21(r)~~; and 52.21(t) the term "administrator" means the administrator of EPA;

(2) For the purposes of this section, the term "Act" means the Clean Air Act;

(3) For the purposes of this section, in 40 C.F.R. § 52.21(c), the Class I areas in South Dakota are Wind Cave National Park and the Badlands National Park;

(4) 40 C.F.R. § 51.166(q) is incorporated by reference excluding the phrase "The plan shall provide that..." In § 51.166(q)(1) the phrase "reviewing authority" means the secretary and the phrase "specified time limit" means 60 days.

The secretary shall transmit to the administrator of the EPA a copy of each permit application subject to this section and shall notify the administrator of the EPA of each significant action the secretary takes on the application.

**Note:** The procedural requirements for obtaining a preconstruction permit under the prevention of significant deterioration program are similar to the procedural requirements for a Part 70 source, such as a timely and complete application, completeness review, statement of basis, public participation, and departmental recommendation, as outlined in §§ 74:36:05:08 to 74:36:05:20.01, inclusive.

**74:36:10:02. Definitions.** For the purposes of this chapter, the definitions for new source review are those in 40 C.F.R. § 51.165(a)(1), except for § 51.165(a)(1)(vi) and (xii) (July 1, 1993), as amended and published in 67 Fed. Reg. 80245 to 80248, inclusive (December 31, 2002).

For the purposes of this chapter, the term, "~~Act~~ Act", means the Clean Air Act.

For the purposes of this chapter, the term "actual emissions" is defined as stated in § 74:36:01:02.

For the purposes of this section, the term, reviewing authority, means the secretary.

**74:36:10:03. Net emissions increase defined.** Net emissions increase is the amount by which the sum of the following exceeds zero:

—— (1) An increase in actual emissions from a particular physical change or change in the method of operation at a stationary source; and

—— (2) Other increases and decreases in actual emissions at the source that are contemporaneous with the particular change and are otherwise creditable;

—— An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs between the date five years before construction of the particular change commences and the date that the increase from the particular change occurs.

**Repealed.**

**Source:** 8 SDR 71, effective December 21, 1981; 13 SDR 129, 13 SDR 141, effective July 1, 1987; 17 SDR 170, effective May 13, 1991; transferred from § 74:26:01:06.01, 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995.

**General Authority:** SDCL 34A-1-6.

**Law Implemented:** SDCL 34A-1-6.

74:36:10:03.01. New source review preconstruction permit required. New major stationary sources or major modifications to existing major sources must obtain a preconstruction permit before beginning actual construction if they are located in the following areas:

(1) An attainment or unclassified area if the source would cause or contribute to a violation of any national ambient air quality standard ; or

(2) An area designated nonattainment for any national ambient air quality standard if the source is major for the pollutant for which the area is designated nonattainment.

Except as provided by a plant-wide applicability limit and a pollution control project exclusion, a proposed project is considered a major modification to an existing major source if the proposed project meets the criteria in 40 C.F.R. § 51.165(a)(2)(ii)(A) to (F), inclusive as published in 67 Fed. Reg. 80248 to 80249, inclusive (December 31, 2002).

Source:

General Authority: SDCL 34A-1-6, 34A-1-21.

Law Implemented: SDCL 34A-1-6, 34A-1-21.

Note: The procedural requirements for obtaining a preconstruction permit under the new source review program are similar to the procedural requirements for a Part 70 source, such as a timely and complete application, completeness review, statement of basis,

**public participation, and departmental recommendation, as outlined in §§ 74:36:05:08 to 74:36:05:20.01, inclusive.**

**74:36:10:04. Criteria for creditability of increase or decrease in actual emissions.** ~~An increase or decrease in actual emissions is creditable only under the following conditions:~~

~~—— (1) The department has not relied on the increase or decrease in issuing a permit for the source under this chapter which is in effect when the increase or decrease in actual emissions from the particular change occurs;~~

~~—— (2) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level; and~~

~~—— (3) A decrease in actual emissions is creditable only to the extent that:~~

~~—— (a) The old level of actual emissions or the old level of allowable emissions, whichever is less, exceeds the new level of actual emissions;~~

~~—— (b) It is federally enforceable at and after the time that actual construction on the particular change begins;~~

~~—— (c) The department has not relied on it in issuing any permit under this chapter or relied on it in demonstrating attainment or reasonable further progress; and~~

~~—— (d) It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.~~

~~—— An increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period of not more than 180 days. **Repealed.**~~

**Source:** 19 SDR 157, effective April 22, 1993; 21 SDR 119, effective January 5, 1995.

**General Authority:** ~~SDCL 34A-1-6.~~

**Law Implemented:** ~~SDCL 34A-1-6.~~

**74:36:10:05. ~~Preconstruction review for new major sources~~ New source review preconstruction permit.** ~~New major sources or major modifications which locate in an attainment or unclassified area and would cause or contribute to a violation of any national ambient air quality standard must meet~~ **A new source review preconstruction permit must satisfy the following criteria for a permit to construct before beginning actual construction:**

(1) All requirements for new source performance standards in chapter 74:36:07 that apply to the facility;

(2) Compliance with the lowest achievable emission rate (LAER);

(3) Certification of compliance that all other major sources, major modifications, or reconstructed facilities that are owned, operated, or controlled by the applicant either in whole or in part elsewhere in the state are in compliance with all applicable emission limitations and standards; and

(4) **The total tonnage of increased emissions, in tons per year, resulting from a major modification that must be offset shall be determined by summing the difference between the allowable emissions after the modification and the actual emissions before the modification for each emissions unit.** Emissions offsets are ~~conducted~~ **determined** in accordance with § 74:36:10:07.

**The owner or operator may use a clean unit test as described in §§ 74:36:10:09 or 74:36:10:10 to determine whether emission increases at a clean unit are part of a project that is a major modification.**

**The owner or operator may apply for a pollution control project exclusion. The procedures for a pollution control project exclusion are those in 40 C.F.R. § 51.165(e)(1) to (e)(6), inclusive as published in 67 Fed. Reg. 80254 to 80255, inclusive (December 31, 2002).**

**The owner or operator may apply for a plant-wide applicability limit. The procedures for a plant-wide allowable limit are those in 40 C.F.R. § 51.165(f)(1) to (f)(15), inclusive as published in 67 Fed. Reg. 80255 to 80259, inclusive (December 31, 2002).**

Approval to construct does not relieve an owner or operator of the responsibility to comply fully with applicable provisions of this article or the Clean Air Act and any other requirements under local, state, or federal law.

Submission of preconstruction monitored or projected ambient air quality data, or both, from the proposed source must accompany the permit application. In addition, air quality dispersion modeling and meteorological data for the prescribed area may be required by the department. Costs of these requirements must be absorbed by the proposed source.

**Note:** The procedural requirements for obtaining a preconstruction permit under the new source review program are similar to the procedural requirements for a Part 70 source, such as a timely and complete application, completeness review, statement of basis, public participation, and departmental recommendation, as outlined in §§ 74:36:05:08 to 74:36:05:20.01, inclusive.

**74:36:10:06. Causing or contributing to a violation of any national ambient air quality standard. This section applies to any major stationary source or major modification to an existing major source that is located in an attainment or unclassifiable area that may cause or contribute to violation of a national ambient air quality standard.** A major stationary source or major modification **to an existing major source** is considered to cause or contribute to a violation of a national ambient air quality standard **when if** the source or modification would, at a minimum, exceed the following significance levels at any locality that does not or would not meet the applicable national standard:

## POLLUTANT AND SIGNIFICANT LEVELS

			Averaging time (hours)		
	Annual	24	8	3	1
(1) <del>S02</del> S02:	1.0 ug/m3	5 ug/m3	-	25 ug/m3	-
(2) PM 10:	1.0 ug/m3	5 ug/m3	-	-	-
(3) <del>Nox</del> NO2:	1.0 ug/m3	-	-	-	-
(4) CO	-	-	0.5 mg/m3	-	2 mg/m3

The owner or operator of a new major stationary source or major modification to an existing major source may reduce the impact of its emissions on air quality by obtaining emission offsets to compensate for its adverse ambient impact where the new major source or major modification to an existing major source would otherwise cause or contribute to a violation of the national ambient air quality standard. The procedures for determining credit for emission offsets are those in ARSD 74:36:10:07.

74:36:10:07. Determining credit for emission offsets. The baseline for determining credit for emission offsets is the emission limit in effect at the time the application to construct is filed, except that the offset baseline is the actual emission of the unit from which offset credit is obtained if the demonstration of reasonable further progress and attainment of ambient air quality standards is based upon the actual emissions of sources located within a designated nonattainment area; or if there is no applicable emission limit.

In determining credit for emission offsets the following criteria shall be met:

(1) All offsets must be for the same pollutant, result in a net positive air quality benefit in the affected area, and be approved by the department before issuance of the permit, even though they need not be in effect until the source commences operation;

(2) ~~The baseline for determining credit for emission offsets is the emission limits in effect for the existing sources at the time the application to construct or modify is filed or the actual emissions if there is no emission limit specified in the permit;~~

~~(3) Emission offsets shall be calculated by pounds per hour or tons per year when all facilities involved in the offset calculations are operating at their maximum expected or allowed production. When offsets are calculated by tons per year, the baseline emissions for existing sources providing the offsets shall be calculated using the actual annual operating hours for the previous one or two year periods;~~

(4) ~~(2)~~ External offsets or those emission limitations from sources not owned, operated, or controlled by an applicant for a permit shall be made through a revision of the permit conditions of the participating source or sources. At no time may the baseline be exceeded;

~~(5)~~ Offsets ~~(3)~~ The permissible location of offsetting emissions shall be conducted within the immediate vicinity - in accordance with 40 C.F.R., Part 51, Appendix S, section IV.D (July 1, 1993);

~~(6)~~ (4) For an existing fuel combustion unit, credit shall be based on the emission limit for the type of fuel being burned at the time the application to construct is filed. If a the existing source ~~proposes~~ agrees to switch to a cleaner fuel at some future date, emission offset credits based on the allowable or actual emissions for the fuels involved may be allowed only if ~~specified~~ permit conditions specify an alternative control measure exists that would achieve the same degree of emission reduction if the source switched back to the dirtier fuel at some later date;

~~(7)~~ (5) Emission reductions achieved by shutting down an existing unit or curtailing production or operating hours below baseline levels may be credited if the reductions are permanent, quantifiable, federally enforceable, and the area has a federally-approved attainment plan. In addition, the shutdown or curtailed production must occur A source may obtain credit toward offset emissions from a new source if the source can establish that it shut down or curtailed production at an existing source after August 7, 1977, or less than one year before the date of submitting the permit application, whichever is earlier, and the proposed new source is a replacement for the shutdown or curtailment. Credit for the shutdown or curtailed production must be permanent, quantifiable, and federally enforceable and the area must have a federally approved attainment plan. If a source shuts down or permanently curtails production or operating hours, emission reductions below the baseline may be credited only if the department has been officially notified of the proposed shutdown or curtailment. Emission reductions may be credited in the absence of a federally-approved attainment plan if the shutdown or curtailment occurred on or after the date the application is filed for a new unit or if the applicant can establish that the proposed new unit is a replacement for the shutdown or curtailed unit, and the shutdown or curtailment occurred after August 7, 1977, or less than one year before the date of submitting the permit application, whichever is earlier;

~~(8)~~ (6) Except as set forth in 40 C.F.R. § 51.165(a)(3)(ii)(D) (July 1, 1993), emission offset credit may not be allowed for replacing one hydrocarbon compound with another of lesser reactivity; ~~and~~

~~(9)~~ (7) Credit for emissions reduction can may be claimed to the extent that the department has not relied on it in issuing a permit or in its demonstration of attainment or reasonable further progress;

(8) If the emissions limit allows greater emissions than the potential to emit of the unit, the emission offset credit is allowed only for the control below the potential to emit of the unit;

(9) Decreases in actual emissions resulting from the installation of add-on control technology or application of pollution prevention measures that were relied upon in

designating an emissions unit as a clean unit or a project as a pollution control project may not be used as offset:

(10) Decreases in actual emissions occurring at a clean unit may not be used as offsets, except as provided in 40 C.F.R. 4 51.165(c)(8) and (d)(10) (July 1, 1993) as amended and published in 67 Fed. Reg. 80251 and 80253 (December 31, 2002). Similarly, decreases in actual emissions occurring at a pollution control project may not be used as offsets, except as provided in 40 C.F.R. § 51.165(e)(6)(iv) (July 1, 1993) as amended and published in 67 Fed. Reg. 80254 and 80255 (December 31, 2002); and

(11) All emission reductions claimed as offset credit must be federally enforceable.

74:36:10:08. Projected actual emissions. Any owner or operator who proposes a project for existing emissions units at a major stationary source that is not considered a major modification based on projected actual emissions but may result in a significant emission increase shall comply with the requirements in 40 C.F.R. 4 51.165(a)(6)(i) to (v), inclusive, as published in 67 Fed. Reg. 80249 (December 31, 2002). This section does not apply to projects at a clean unit or at a source with a plant-wide applicability limit.

The owner or operator shall make the information required to be documented in 40 C.F.R. § 51.165(a)(6)(i) to (v), inclusive, as published in 67 Fed. Reg. 80249 (December 31, 2002) available for review upon a request for inspection by the secretary or the general public pursuant to the requirements contained in 40 C.F.R. 4 70.4(b)(3)(viii) (July 1, 1993).

Source:

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-6.

74:36:10:09. Clean unit test for emission units subject to lowest achievable emission rate. A clean unit test may be used to determine whether an emission increase at a clean unit is part of a project that is a major modification according to the provisions in 40 C.F.R. § 51.165(c)(1) to (c)(9), inclusive as published in 67 Fed. Reg. 80249 to 80251, inclusive, (December 31, 2002).

Source:

General Authority: SDCL 34A-1-6.

Law Implemented: SDCL 34A-1-6.

74:36:10:10. Clean unit test for emission units comparable to lowest achievable emission rate. A clean unit test may be used to determine whether an emission increase at a clean unit is part of a project that is a major modification for a clean unit that does not qualify as a clean unit under § 74:36:10:09, but is achieving a level of emission control comparable to lowest achievable emission rate as determined by the secretary in accordance with the provisions in 40 C.F.R. 4 51.165(d)(2) to (d)(11), inclusive, as published in 67 Fed. Reg. 80251 to 80254, inclusive, (December 31, 2002).

Source:



**General Authority: SDCL 34A-1-6.**

**Law Implemented: SDCL 34A-1-6.**

**74:36:11:01. Stack performance testing or other testing methods.** All stack performance tests or other test methods must be made in accordance with the applicable method specified in 40 C.F.R. § 60.17; Part 60, Appendix A; § 63.14; Part 63, Appendix A; and Part 51, Appendix M (all July 1, 1999). ~~To the extent that 40 C.F.R. § 60.17; Part 60, Appendix A; § 63.14; Part 63, Appendix A; or Part 51, Appendix M (July 1, 1999), is not applicable, methods shown to be capable of providing valid test results for the source in question may be used with prior department approval. The department may not accept a performance test conducted by unapproved methods.~~

This concluded the explanation of proposed amendments.

No one offered public comments. Chairman Sweetman requested board action.

Motion by Radke, seconded by Monson, to adopt revisions to sections 74:36:01:01, 74:36:04:06, and 74:36:11:01, revisions to chapters 74:36:07, 74:36:08, 74:36:09, and 74:36:10, and add new sections 74:36:04:32, 74:36:04:33, 74:36:05:51, 74:36:05:52, 74:36:08:01, 74:36:08:20.02, 74:36:08:24, 74:36:08:25, 74:36:08:26, 74:36:08:27, 74:36:08:28, 74:36:08:29, 74:36:08:30, 74:36:09:01.01, 74:36:10:03.01, 74:36:10:08, 74:36:10:09, and 74:36:10:10, as presented to the board. Motion carried.

Chairman Sweetman declared the hearing closed.

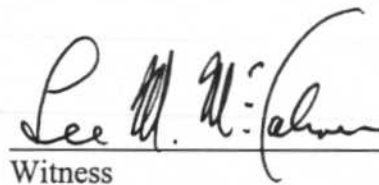
**ELECTION OF OFFICERS:** Motion by Monson, seconded by DeMersseman, that the current slate of officers remain for another year - Richard Sweetman, chairman, Lee McCahren, vice chairman, and Kathy Johnson, secretary. Motion carried.

**OTHER BUSINESS:** The board discussed upcoming meeting locations. The board agreed to hold the August 21, 2003, meeting at the Matthew Training Center in Pierre.

The September 17, 18, and 19, 2003, meeting will be in the Black Hills. The board will travel to the Harding County oil fields on September 17, hold its regular meeting in Lead on September 18, and tour mine sites on September 19.

**ADJOURNMENT:** Chairman Sweetman declared the meeting adjourned.

  
Secretary \_\_\_\_\_ Date 8/21/03

  
Witness \_\_\_\_\_ Date 8/21/03

## BOARD OF MINERALS AND ENVIRONMENT MEETING

Location Matthew Training Center  
Pierre

Date 7-17-03

NAME (PLEASE PRINT)

ADDRESS

## REPRESENTING

[illegible]

# *South Dakota Board of Minerals & Environment*

**July 17, 2003**

<u>License/Permit Holder</u>	<u>License/ Permit</u>	<u>Site No..</u>	<u>Surety Amt..</u>	<u>Surety No..</u>	<u>Surety Company/Bank</u>	<u>DENR Recommendation</u>
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**Releases of Liability and Surety:**

Brad Choal Reliance, SD	92-471		\$1,000	64335	First National Bank, Pierre	Release liability and \$1,000.
		<b>471002</b>	NE1/4 Section 6; T107N-R74W, Lyman			

Groves Excavation & Snow Removal Vermillion, SD	83-127		\$500	30436	Community First Bank, Vermillion	Release liability and \$500.
		<b>127001</b>	NW1/4 SE1/4 SW1/4 Section 30; T92N-R51W, Clay			

Jerry M. Marts Construction Gregory, SD	85-294		\$1,000	60060	First National Bank, Pierre	Release liability and \$1,000.
		<b>294001</b>	NE1/4 Section 4; T95N-R73W, Gregory			

**Transfer of Liability and Release of Surety:**

Richard L. Durham Construction Geddes, SD	89-395		\$500	62720	First National Bank, Pierre	Transfer liability and release \$500.
		<b>395001</b>	W1/2 NE1/4, N1/2 NW1/4 Section 30; T97N-R66W, Charles Mix			

Transfer to:

Charles Mix County Highway Department Lake Andes, SD	83-22		EXEMPT	NA	NA	
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# South Dakota Board of Minerals & Environment

July 17, 2003

<u>License/Permit Holder</u>	<u>License/ Permit</u>	<u>Site No.</u>	<u>Surety Amt.</u>	<u>Surety No.</u>	<u>Surety Company/Bank</u>	<u>DENR Recommendation</u>
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**Transfer of Liability and Release of Surety:**

Wookey Construction Clark, SD	97-616		\$500	7519	Community First State Bank, Clark	Transfer liability and release \$500.
		<b>616001</b>	NE1/4 Section 12; T115N-R58W, Clark			

Transfer to:

Clark County Highway Department Clark, SD	83-150		EXEMPT	NA	NA	
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**Transfer of Liability:**

DOT – Pierre Region	83-10		EXEMPT	NA	NA	Transfer liability.
		<b>10151</b>	SE1/4 Section 8; T114N-R78W, Sully			

Transfer to:

Sully County Highway Department Onida, SD	83-132		EXEMPT	NA	NA	
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# South Dakota Board of Minerals & Environment

July 17, 2003

<u>License/Permit Holder</u>	<u>License/ Permit</u>	<u>Site No.</u>	<u>Surety Amt.</u>	<u>Surety No.</u>	<u>Surety Company/Bank</u>	<u>DENR Recommendation</u>
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**Releases of Liability:**

Dale G. Anderson Bridgewater, SD	83-196		\$1,500	55-52349	United Fire & Casualty Company	Release liability.
			\$2,228	10463	The Security State Bank, Emery	
			\$1468	11601	The Security State Bank, Emery	
		<b>196013</b>	SE1/4 NE1/4, NE1/4 SE1/4 Section 36; T100N-R58W, Hutchinson			
		<b>196011</b>	NE1/4 SW1/4 Section 18; T101N-R54W, McCook			
		<b>196003</b>	Section 36; T102N-R55W, McCook			
Boyden Construction Platte, SD	85-313		\$20,000	116951	Frontier Insurance Company	Release liability.
		<b>313005</b>	NW1/4 SE1/4 Section 15; T100N-R67W, Charles Mix			
Darrell's Rock, Sand, & Gravel Wessington Springs, SD	86-320		\$5,000	159127241	Continental Casualty Company	Release liability.
			\$2,500	10022578	American State Bank, Wessington Springs	
		<b>320011</b>	SW1/4 Section 32; T112N-R64W, Beadle			

# South Dakota Board of Minerals & Environment

**July 17, 2003**

License/Permit Holder	License/ Permit	Site No.	Surety Amt.	Surety No.	Surety Company/Bank	DENR Recommendation
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**Releases of Liability:**

Byrl Fenton Canova, SD	83-74		\$500	3464	Miner County Bank, Canova	Release liability.
			\$500	3465	Miner County Bank, Canova	
			\$500	4325	Miner County Bank, Canova	
			\$500	105249	Miner County Bank, Canova	
			\$500	105250	Miner County Bank, Canova	
			\$500	105251	Miner County Bank, Canova	
			\$2,000	105196	Miner County Bank, Canova	
			\$1,000	105203	Miner County Bank, Canova	
		<b>74021</b>	NE1/4 Section 20; T104N-R53W, McCook			
Fisher Sand & Gravel Company Dickinson, ND	83-54		\$20,000	190-002-030	Liberty Mutual Insurance Co.	Release liability.
		<b>54102</b>	NW1/4 Section 12; T125N-R73W, McPherson			
Kellen & Streit Inc. Yankton, SD	83-207		\$6,000	0925 63 80	Fidelity & Deposit Company of Maryland	Release liability.
		<b>207002</b>	N1/2 Section 12; T94N-R56W, Yankton			
Schladweiler Construction Mitchell, SD	83-167		\$2,500	3224	Live Stock State Bank, Mitchell	Release liability.
		<b>167005</b>	Section 2; T99N-R59W, Hutchinson			

# South Dakota Board of Minerals & Environment

July 17, 2003

License/Permit Holder	License/ Permit	Site No.	Surety Amt.	Surety No.	Surety Company/Bank	DENR Recommendation
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**Releases of Liability:**

Weatherton Contracting Co. Inc. Beresford, SD	88-364	<b>364013</b>	\$20,000 SW1/4 Section 32; T112N-R64W, Beadle	141551847	Continental Casualty Company	Release liability.
Aurora County Highway Department Plankinton, SD	83-87	<b>87013</b>	EXEMPT SW1/4 Section 16; T101N-R66W, Aurora	NA	NA	Release liability.
Mellette County Highway Department White River, SD	83-193	<b>193020</b> <b>193017</b>	EXEMPT NE1/4 Section 19; T40N-R27W, Mellette SE1/4 Section 1; T42N-R30W, Mellette	NA	NA	Release liability.
Spink County Highway Department Redfield, SD	83-115	<b>115006</b>	EXEMPT S1/2 NE1/4 & N1/2 SE1/4 Section 15; T113N-R60W, Beadle	NA	NA	Release liability.